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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,948	01/26/2004	Leif Lindholm	800738-0008	9328

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EXAMINER

SWIATEK, ROBERT P

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 03/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/764,948

Applicant(s)

LINDHOLM, LEIF

Examiner

Robert P. Swiatek

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25, 27-29, 31-42 and 45-57 is/are rejected.
- 7) ☒ Claim(s) 26, 30, 43 and 44 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1-26-04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

For the purposes of this action, claim 45 is considered to depend from claim 25.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 25, 28, 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Moskvina (US 5,161,483). The Moskvina metering chamber 5, 8 includes a sampling duct 9, which meters out quantities of milk 2 and communicates with the interior of chamber 5. Sampling duct 9 terminates in a sample collecting receptacle 16 and thus is connected indirectly with a level of vacuum in receptacle 16. Column 9, lines 1-4, notes that successive milk doses within receptacle 16 are counted.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 45-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moskvina. While the volume of the metering chamber 5, 8 is not disclosed, the exact value would have been obvious to one skilled in the art wishing to accommodate the total yield of milk from the milking machine and hence the cows. As to claim 47, use of a plurality of the Moskvina systems with a

single herd of animals likewise would have been obvious to one skilled in the art if the number of cows in the herd exceeded the capacity of a single Moskvin system.

Claims 33, 49-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grochowicz (US 3,841,756: Ref. A on Information Disclosure Statement) in view of Moskvin.

The Grochowicz milking apparatus includes a metering chamber 20 in which a plurality of sensors 30, 32—encompassing butterfat and leukocyte sensors—is disposed. The sensors include an infrared transmitter 40 working in conjunction with a photocell 42. Metering chamber 20 of Grochowicz has an upper inlet (connected to hose 18) and a lower, unnumbered outlet (see Figure 2 of Grochowicz), but his apparatus lacks a means for counting the filling and emptying cycles. It would have been obvious to one skilled in the art to employ a counting mechanism with the Grochowicz milking apparatus whereby the number of filling and emptying cycles of the chamber 20 can be ascertained, in view of the patent to Moskvin that this permits determination of the total yield of milk (see column 5, lines 7-11, and column 8, lines 55-66, of Moskvin). As to claim 49, see column 3, lines 47-61, of Grochowicz.

Claims 1-24, 27, 31-42, 45, 46, 48-57 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, lines 4, 8, 10, claim 2, line 3, claim 18, lines 2, 4, claim 19, lines 2, 4, claim 20, line 1, claim 27, line 3, claim 31, line 4, claim 33, line 8, claim 38, line 2, claim 40, line 4, claim 41, line 3, claim 42, line 3, and claim 56, line 3, each occurrence of “and/or” is unclear in that it fails to properly limit the scope of the invention; in claim 2, line 3, and claim 27, line 3, the parenthetical expression “(e.g. NAGase)” does not properly limit the scope of the invention and the acronym “NAGase” is unclear and does not

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necessarily have a fixed definition; in claim 11, line 2, claim 12, line 2, claim 24, line 2, and claim 48, line 2, each occurrence of the expression "quality/composition" is unclear and does not properly limit the scope of the invention; dependent claim 45 does not refer to an earlier claim.

Claims 1-24 objected to because of the following informalities: In claim 1, line 8, "cycle is" should be changed to "cycles are-"; in claim 12, line 1, "of" should be deleted. Appropriate correction is required.

Claims 1-24 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Claims 27, 31, 32, 34-42, 48, 55-57 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 26, 30, 43, 44 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

On page 12, line 2, of the specification, "As" should be changed to "At-".

The patent to Mortensen (US 4,385,590) has been cited to provide an additional example of a milk quality detection device.

RPS: ©703/308-2700 (current); ©571/272-6894 (future)  
24 February 2005

*Robert P. Swiatek*  
ROBERT P. SWIATEK  
PRIMARY EXAMINER  
ART UNIT 333 3643